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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

VASUDEVA, AJAY

ART UNIT PAPER NUMBER

3617

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/501,582

Applicant(s)

CLUTTON ET AL.

Examiner

Ajay Vasudeva

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____   | 6) <input type="checkbox"/> Other: ____                                     |

*Ch*

## DETAILED ACTION

### *Specification*

1. The listing of prior art fin assemblies in Tables 1 and 2 of the Specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.
2. On page 11 (line 16) and page 16 (line 26), change "**manoeuvrable**" to – **maneuverable** --.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-46 and 54-56 are rejected under 35 U.S.C. 102(b) as being anticipated by AU 9170912 A (WEBERLING).

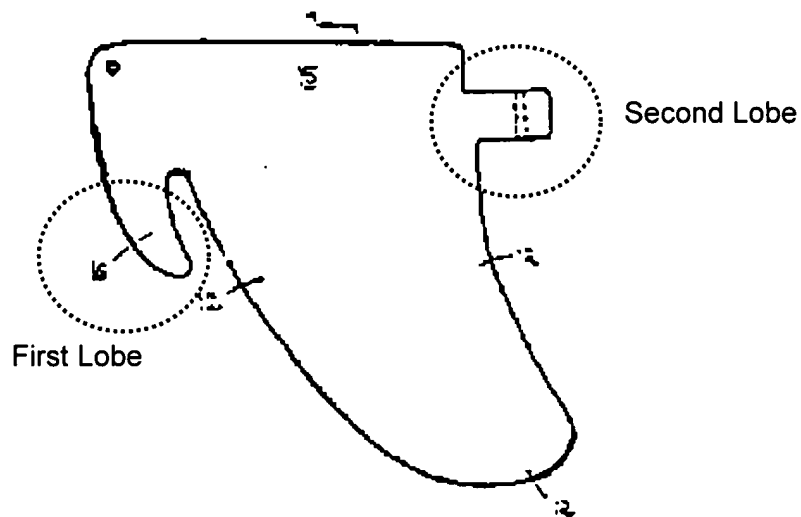
Weberling shows a fin assembly for a surf craft, having a primary fin [12] and a secondary fin [16] extending from a base [15], each fin having respective primary and secondary leading edges, as well as primary and secondary trailing edges. The base and the fins are integrally formed, wherein the base extends longitudinally between the leading primary edge and the trailing secondary edge. The leading and trailing edges of the fins are aligned. The trailing primary edge and the leading secondary edge are joined by an intermediate arcuate

edge defined by the base. The fins include respective pairs of opposite faces that extend between the leading and trailing edges.

Re claim 13, the leading primary edge is curved substantially complementarily to the leading secondary edge.

Re claim 16, the fins are made of aluminum, and therefore, are inherently capable of certain degree of deformation if exposed to extreme hydrodynamic forces during use.

Re claims 17-34, the limitation “lobe” has been interpreted to mean “a projection.” As such, the secondary fin is alternatively considered to be a “first lobe”. The assembly additionally comprises a “second lobe” disposed behind the primary fin (*see annotated drawing below*). Both the first and second lobes extend rearwardly from the base, the first lobe having a lobe edge, a tangent to which is parallel to the plane.



Re claim 22, the second lobe is underlying the leading and trailing edges of the primary fin.

Re claim 35, a sectional area of the feathered portion appears to be greater than 0.2x of the combined total sectional area defined by the base, the primary fin and the secondary fin.

Art Unit: 3617

Re claims 38-41, the steps recited in the method claims are inherent in the construction and a subsequent use of the fin.

From the above depicted figure, at least half of the exposed area of the assembly appears to be within a third depth of the fin. Similarly, the ratio of the exposed area to the peripheral edge appears to be less than 23.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 47-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over AU 9170912 A (WEBERLING).

Weberling shows a fin assembly having primary and secondary fins extending from a base, as above.

However, Weberling does not disclose expressly the assembly as having a sectional area of about 90-95 sq. cm., or the perimeter of the area being greater than about 400 mm.

It is noted that the area and perimeter dimensions of a fin are also dependant on the size of a surf craft on which the fin is mounted, and as such, a determination of such dimensions is considered to be a matter of obvious design choice. When used with a surf craft of large size, it would have been obvious for one skilled in the art to proportionally dimension the fin of Weberling to a sectional area of about 90-95 sq. cm., and a perimeter of greater than about 400 mm. Having such dimensions would have allowed the fin to provide sufficient hydrodynamic stability to the surf craft, and would have enabled a user to safely execute sharp turns.

Art Unit: 3617

**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (571) 272-6689. The examiner can normally be reached on Monday-Friday 12:00 -- 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ajay Vasudeva  
Examiner  
Art Unit 3617

A handwritten signature in black ink that reads "Ajay Vasudeva". To the right of the signature, the date "10/2/05" is written.

**AJAY VASUDEVA  
PATENT EXAMINER**